

PROPERTY LOST IN THE MILITARY SERVICE OF THE  
UNITED STATES.

[To accompany bill H. R. No. 309.]

JULY 21, 1842.

Mr. COWEN, from the Committee of Claims, made the following

REPORT:

*The Committee of Claims, to which was referred "A bill to provide for the payment of soldiers' horses," report:*

That they have given the subject as full consideration as was consistent with their other duties, and have concluded to report a bill to provide for the payment for property lost or destroyed while in the military service of the United States, in all cases which, in their opinion, payment should be made. The bill which is reported is proposed as a substitute for the one referred to the committee.

The subject of providing for payment of losses sustained in time of war by citizens of the United States has often been before Congress, and many acts have been passed for that purpose. Some of those acts have been more, and others less, general. Some have provided for the payment for one species of property and others for another. Some have been retrospective; some both prospective and retrospective; and all have been limited in their duration.

The consequence of retrospective, repeated, and temporary legislation, has been, as might be expected, an unequal dispensation of favors. Many of the sufferers by the war of 1812, who, because they were not provided for by the law of 1816, have received nothing, and by reason of lapse of time, and the death and defective memory of witnesses, cannot now obtain relief, are provided for by subsequent laws.

Acts have been passed for the relief of sufferers in the war of 1812, the Seminole war of 1818, the Black Hawk war, the Florida war, and for particular corps of troops in some of those wars. Some of those acts have expired and been renewed, and, in some instances, their provisions enlarged.

The committee upon full consideration of the subject, and in view of such objections as have occurred to them, have concluded that whatever law is passed upon this subject should be general, prospective, and of unlimited duration. In consideration that Congress has heretofore, in repeated instances, provided for the payment of damages sustained in cases where the Government was not liable at the time the damages were sustained, the committee have provided, in the bill herewith reported, for payment for property heretofore lost, as well as for such as may be hereafter lost. The practice of Congress, through a series of years, to pro-

vide for payment for losses sustained after they were incurred, has furnished good ground of expectation to the people that it would be continued, and for that reason it is believed to be required by the principles of justice as well as sound policy.

As a general rule, those who enter into the service of their country, in peace or war, should be held to the terms of their contracts, to be construed by such laws as were in force at the time of entering into the service. Whatever relief is afforded to them by special legislation, beyond what the general laws and their contracts entitle them to, is in the nature of a gratuity which should not be granted except in very peculiar and extreme cases, if ever. A refusal in all cases to afford relief when the claim is unsupported by law, or not founded in express contract, would leave many cases of great hardship unprovided for; but justice should be administered with an even hand, and unless fixed rules are observed by the Legislature in its transactions with individuals, great inequalities must result, and many unfortunate sufferers will have a just cause of complaint.

The bill herewith reported has been framed with an especial reference to former acts of Congress upon the same subjects, and the constructions of those acts, and the practice of the Departments in administering them.

There is now depending before Congress, some of which have been reported upon by the committees to which they were referred, and some of which have not, a great number of petitions for relief for injuries sustained while the petitioner was in the military service of the United States. Not a session of Congress has passed for many years without the presentation of many of that class of cases. By the enactment of a general law providing for all such cases as Congress thinks should be provided for, much time would be saved and all future attempts to enlarge the rules of compensation would probably consist of propositions to amend the general law, which would be much less likely to result in a precipitate departure from true policy in relation to it than when the laws are temporary and of limited operation.

It has been suggested that, by prospective legislation and the publication of rules and regulations for the establishment of claims before they have accrued, might enable dishonest men to fabricate evidence by which unjust claims would be established and recovered. That is no doubt true in reference to claims of this description, as well as in all other cases where the laws, by which private rights are protected and private wrongs redressed, are made public. It is one of those evils to which all societies are subject. It is, however, as the committee think, no good reason against the passage of the bill reported. It is a good reason for great caution on the part of those to whom the execution of the law may be entrusted. It should be remembered, in relation to this view of the subject, that, whatever is calculated to facilitate the reparation of injuries to the honest sufferer, puts it the more easily in the power of the dishonest and corrupt, by fraud and perjury, to obtain what is not their own.

The bill reported is, in some respects, different from any former law upon this subject. It proposes to make it perjury to swear falsely in support of any claim presented under it. In relation to one class of claims—those for property destroyed while in military occupancy—which are generally larger in amount than those of the other classes, it is not proposed to give the Department authority to finally adjust and settle them, but to require it to examine them and report to Congress.

This subject has been heretofore considered by committees of this House and reported upon. Reports from the Third Auditor, prepared with the usual ability of that diligent and experienced officer, have been heretofore made and published. The committee have deemed it sufficient to refer to some of those reports as sources of information to such as may be disposed to investigate the subject. (See Rep. Com. 2d session, 25th Congress, 921, 1060. Ex. Doc. No. 135, 1st session 24th Congress. Rep. Com. 1st session 26th Congress, 843. Ex. Doc. 119, 2d session 26th Congress.)

The committee also refer the House to the acts of Congress of April 9, 1816, the act of January 18, 1837, and the acts amendatory and supplementary to those acts.

